of the article may be declared unlawful. *Bowman v. Chi. etc., R. R. Co.*, 125 U. S. 465. This may discourage interstate commerce but it is not such regulation as is unconstitutional. *Magner v. People*, 97 Ill. 320.

CRIMINAL LAW — SUFFICIENCY OF INDICTMENT — REVIEW. — PEOPLE V. WIECHERS ET AL., 72 N. E. 501 (N. Y.).—*Held*, that an indictment, not objected to at the trial, nor demurred to before trial, nor objected to by motion in arrest of judgment, could not be attacked by appeal to the Court of Appeals, the offense not being a capital one, though it does not charge any criminal offense. Cullen, C. J., and O'Brien, J., *dissenting*.

Under the N. Y. Code of Criminal Procedure demurrer lies to an indictment when the facts do not constitute a crime. *People v. D'Argencour*, 32 Hun. 175; *People v. Kane*, 43 App. Div. 472. Objection may be taken at the trial under plea of not guilty or in arrest of judgment. *People v. Davis*, 56 N. Y. 95; *People v. Upton*, 38 Hun 107. Plea of not guilty is a denial of every material allegation in the indictment. *People v. Benjamin*, 2 Park. Cr. 201. The fundamental defects appearing on the face of the record may be reviewed and corrected on appeal. The bill of exceptions enlarges the scope of review, but does not exclude other grounds. *People v. Thompson*, 41 N. Y. 1. The defect is not cured by the verdict. *People v. Davis*, 4 Park. Cr. 67. Appeal, like writ of error, brings up all questions of error in the indictment, verdict, or any part of the record. *State v. Dark*, 8 Blackf. 526; *Com. v. Thompson*, 13 B. Mon 159. If there was no crime charged the verdict of guilty could not be broader than the charge, and consequently there is nothing to support the judgment. If the judgment is void a writ of *habeas corpus* would lie. *U. S. v. Patterson*, 29 Fed. 775; *In re Garvey*, 7 Colo. 384; *Ex parte Reynolds*, 35 Tex. Cr. R. 437.

EASEMENTS—DRAINAGE—SURFACE WATERS.—DAVIS V. FRY, 78 PAC. 180 (OKL.).—When surface waters by natural drainage collect in a natural basin or depression upon the premises of a dominant tenement, and escape therefrom only by percolation or evaporation, forming thereby a lake or pond, permanent in its character, *held*, that the waters so collected lose the character of surface water, and may not, by artificial means, other than those incident to the cultivation of the soil, be drained to the damage of a servient tenement without liability in damages for such act.

When the situation of two adjoining fields is such that the water falling, or collected by melting snow, and the like, upon one, naturally descends upon the other, the owner of the lower must suffer that it be so discharged if desired by the upper owner, but the latter cannot by artificial trenches cause the natural mode of its being discharged to be changed to the injury of the lower field. *Washburn, Easements*, 353. Most of the decisions in various states are unanimous in the opinion that the owner of the upper heritage may improve his lands by mining or agricultural operations, although thereby the volume of water discharged upon the inferior land is increased, but that he is liable for damage caused by his digging ditches for purposes of draining. *Kauffman v. Griesemer*, 26 Pa. St. 407; *Hogenson v. Railway Co.*, 31 Minn. 224. In *Hughes v. Anderson*, 68 Ala. 280, it was held that the extent to which a proprietor may go in this way must be determined by the degree of comparative injury it may produce and relieve. A still more liberal decision was rendered in *Sheehan v. Flynn*, 59 Minn. 436, making simple drainage the